

## **REMARKS**

Applicant is in receipt of the Office Action mailed April 21, 2004. Claims 2 and 10 have been amended. Claims 1-16 remain pending in the case. Further consideration of the present case is earnestly requested in light of the following remarks.

### **Section 112 Rejections**

Claims 2 and 10 were rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention, specifically, for lack of antecedent basis for the term "collector". Applicant has amended claims 2 and 10 to correct this error. Removal of the 112 rejection of claims 2 and 10 is earnestly requested.

### **Section 102 Rejections**

Claims 1-16 were rejected under 35 U.S.C. 102(b) as being anticipated by Kodosky et al. (U.S. Patent 5,610,828, "Kodosky"). Applicant respectfully disagrees.

As the Examiner is certainly aware, anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim. *Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co.*, 221 USPQ 481, 485 (Fed. Cir. 1984). The identical invention must be shown in as complete detail as is contained in the claims. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claim 1 recites:

1. (Original) A computer-implemented method for creating a graphical program that performs a numerical function, the method comprising:

displaying a node in a graphical program in response to user input;

configuring the node to receive data values, in response to user input;

configuring the node to perform a numerical function on at least a subset of the received data values, in response to user input;

executing the graphical program;  
the node receiving a plurality of data values during execution of the graphical program;  
the node determining a data collection on which to perform the numerical function, wherein the data collection comprises at least a subset of the data values received;  
the node performing the numerical function on the data collection;  
wherein the node maintains state information regarding received data values and uses the state information to determine the data collection on which to perform the numerical function.

In asserting that Kodosky teaches “configuring the node to perform a numerical function (Minimum or Maximum) on at least a subset of the received data values, in response to user input”, the Office Action cites col. 18, lines 27-49. However, the cited passage actually describes a control menu and its use in configuring a control, i.e., a graphical user interface element in a front panel, as opposed to a node in a block diagram. Applicant notes that controls do not perform “numerical functions” (e.g., an average function, a summation function, a minimum or maximum value function, etc.) and that the “Minimum or Maximum” in the passage refers to the specification of value bounds on data to be received or displayed by the control, *not* to max or min functions that operate to return a maximum or minimum of a pair or set of values.

In asserting that Kodosky teaches “executing the graphical program; the node receiving a plurality of data values during execution of the graphical program; the node determining a data collection on which to perform the numerical function, wherein the data collection comprises at least a subset of the data values received; the node performing the numerical function on the data collection; wherein the node maintains state information regarding received data values and uses the state information to determine the data collection on which to perform the numerical function”, the Office Action cites col. 11, lines 34-42. Applicant notes that the cited passage describes a conditional structure that may utilize any subset of incoming input signals paths, but that does not itself perform a numerical function. Rather, the conditional structure performs a

*logical* function, and while the conditional structure may certainly include or contain nodes that perform numerical functions, the structure itself does not, and so is not properly equated with the node of claim 1.

In asserting that Kodosky teaches “wherein the node maintains state information regarding received data values and uses the state information to determine the data collection on which to perform the numerical function”, the Office Action cites col. 38, lines 64-67. However, the cited passage describes *execution states* of virtual instruments (VIs), e.g., Bad, Idle, Active, Reserved, Running, Suspended, Retrying, and Error states (see col. 38, lines 21-50), as illustrated by the example execution state diagram of Figure 97. Note that these execution states indicate the general operating state of the VI, and are not related to received data values of a node, nor used to determine “the data collection on which to perform the numerical function”. In other words, Applicant respectfully submits that the Examiner has incorrectly equated Kodosky’s execution states with the state information maintained by the node of claim 1.

Thus, Applicant respectfully submits that Kodosky fails to teach all of the features and limitations of claim 1, and so claim 1 and those claims dependent thereon are patentably distinct over Kodosky, and are thus allowable. Independent claim 9 includes similar limitations as claim 1, and so the above arguments apply with equal force to that claim. Thus, Applicant submits that for at least the reasons provided above, claim 9 and those claims dependent thereon are similarly patentably distinct over Kodosky, and are thus allowable.

Removal of the 102(b) rejection of claims 1-16 is earnestly requested.

Applicant also asserts that numerous ones of the dependent claims recite further distinctions over the cited art. However, since the independent claims have been shown to be patentably distinct, a further discussion of the dependent claims is not necessary at this time.

## CONCLUSION

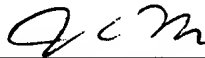
Applicant submits the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert & Goetzel PC Deposit Account No. 50-1505/5150-48900/JCH.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Request for Approval of Drawing Changes
- ☐ Notice of Change of Address
- ☐ Check in the amount of \$        for fees (        ).
- ☐ Other:

Respectfully submitted,



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